

John Doe #4

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION**

JOHN DOE #1, an individual, JOHN DOE #2, an individual, and PROTECT MARRIAGE WASHINGTON,

Plaintiffs,
vs.

SAM REED, in his official capacity as Secretary of State of Washington, BRENDA GALARZA, in her official capacity as Public Records Officer for the Secretary of State of Washington,

Defendants.

No. 3:09-CV-05456-BHS

DECLARATION OF

IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

**NOTE ON MOTION CALENDAR:
September 3, 2009**

The Honorable Benjamin H. Settle

I, [REDACTED], make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the state of Washington over 18 years of age, and my statements herein are based on personal knowledge.

2. My wife and I are pastors at [REDACTED] Church in Olympia, Washington.

My wife has also submitted a declaration in this case.

3. Both my wife and I have been active in the petition campaign involving Referendum 71. I am a supporter of marriage, as defined between one man and one woman.

4. I have previously spoken out against same sex marriage. One forum in which I have done so is during a regular televised appearance that I make as a pastor.

Declaration of

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BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

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1 5. In March 2009, during the debate on Senate Bill 5688, I spoke against the Bill in front of a
 2 State Legislative committee.

3 6. Two of the Senators on the committee were homosexual, and attempted to prevent me
 4 from speaking on everything that I wanted to speak on.

5 7. My wife and I are listed on the Protect Marriage Washington website as endorsers of the
 6 petition.

7 8. I acted as a signature gatherer during the signature gathering period. I gathered signatures
 8 at various locations, including outside public stores such as Wal-Mart, Target, and Fred Meyer.

9 9. During the petition signing period, I traveled and drove to many areas of Washington,
 10 talking to other pastors about Referendum 71 and the Referendum 71 petition drive.

11 10. At a Wal-Mart store, I was obtaining the signature of an older woman. Before she could
 12 sign the petition, a lesbian couple came out of the store and glared at the woman and myself.
 13 One member of the lesbian couple then stated that "We have feelings to."

14 11. After this member of the lesbian couple spoke, the elderly lady became scared and
 15 backed a few feet away, clearly too intimidated to sign the petition. Quickly, I spoke with the
 16 lesbian woman, and then convinced the elderly lady to sign. However, had I not done this, I
 17 believe that the woman would not have signed the petition.

18 12. In another incident at the same Wal-Mart, a transgender person came from inside the
 19 store to where I was collecting signatures outside. He/she stood glaring at me for several minutes
 20 with hands on his/her hips, then asked me what this petition was about. I explained to him/her
 21 that the petition is Referendum 71 to Preserve Marriage and Protect Children. He/she then asked
 22 me why I supported it. I told him/her it was because of my Christian beliefs. He/she started
 23 getting argumentative and asked, "What does the Bible say about that?" I quoted a verse of the
 24 Bible to him/her. At this point, he/she got more argumentative, so I told him/her, "It's obvious
 25 you're not interested in what the Bible says, so we should discontinue this conversation."

26 13. This happened on a Sunday afternoon after my church service, and I was still in my
 27 church suit. The transgender person then asked me, "Are you a pastor?" I said yes. He/she then
 28 asked me where my church was located. I told him/her. The transgender person then said, "I'm

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1 going to come get a *whole bunch* of my gay and transgender friends and we're going to be there
 2 next Sunday *at your church.*" It was clear this was meant to be a threat.

3 14. At another Wal-Mart store, my wife and I were collecting signatures at a table. As my
 4 wife finished helping a woman sign the petition, I noticed a young woman holding her cell phone
 5 up near the table, pointing it at my wife, and either taking a picture or video with the phone. She
 6 also took a picture of me.
 7

8 15. Before either my wife or I could say anything to the young woman, the young woman
 9 told us that she was going to put these photographs of my wife and I on her Facebook and
 10 MySpace pages, without my permission, for all of her lesbian and transgender friends to see. I
 11 viewed this as a threat. After making this comment, she closed her phone and walked away.

12 16. I view the young woman's comment that she was going to place the photograph on her
 13 Facebook page, without my permission, as a threat.

14 17. At a Target store, a lesbian saw that I was gathering signatures outside the store. She
 15 then walked into the store and asked a security guard and a manager to have me leave. However,
 16 when I was asked to leave, I asked to speak with the head manager of the store, who allowed me
 17 to continue to gather signatures. I believe that many people who would have been asked to leave
 18 by a manager and a security guard would have done so, even though they should have been
 19 allowed to gather signatures.

20 18. I have also been participating in the petition signature verification process as an
 21 observer. As an observer, I am required to "sign in" daily with the Secretary of State whenever I
 22 observe the process.
 23

24 19. The day after beginning the observation process, our church phone began to receive calls
 25 from someone who was identified on our caller i.d. as "David Baurle". My wife spoke with
 26 "David," as detailed in her declaration. Because my wife had this conversation on the speaker
 27 phone, I heard the entire conversation. Moreover, the harassment and threats he made were
 28 directed at our church, and therefore, were not only made against her, but against me as well. My

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1 wife spoke with David/Krystal on a Saturday, the day before we were scheduled to have church
2 services.

3 20. Our church is temporarily located in a [REDACTED] After my wife received these calls, the two
4 of us called the [REDACTED] manager and told him of the threats David/Krystal had made against us and
5 our church, with whom we have a good relationship. The manager was concerned about the
6 potential for a disturbance, because this might be bad for his [REDACTED] and it could be viewed badly
7 by his corporation. He was also concerned that members of the “press” would show up at the
8 [REDACTED], and potentially cause a loss of business, as well as disrupt the [REDACTED] of the [REDACTED] My wife
9 and I assured the [REDACTED] manager that federal law prevented the sorts of disturbances that
10 David/Krystal threatened.

11 21. My wife and I also called the police to let them know about the harassing phone calls my
12 wife and I had received, and the threats to disrupt our church services. The officer who
13 responded listened to the numerous messages that David/Krystal had left on our church
14 answering machine. The officer then called David/Krystal and told him not to continue the
15 harassment and threats against us, as well as to tell him that he was not welcome at our church.
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22. After the police were called and put on notice for any potential trouble at our church the following day, I called the police in our own community of Dupont. I asked the police, as well as a close neighbor, to keep a watch over our home. Because my wife and I were acting as the lead observers of the Referendum 71 signature review process from 7:30 a.m. until 10:00 p.m., Monday through Friday, I did not feel comfortable leaving our home unattended after the phone calls and threats that we had begun to receive after overseeing the signature verification process in Olympia.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT.

Executed on: August [REDACTED] 2009.

Signed:

CERTIFICATE OF SERVICE

I, Scott F. Bieniek, am over the age of 18 years and not a party to the above-captioned action. My business address is 1 South Sixth Street; Terre Haute, Indiana 47807-3510.

On September 1, 2009, I electronically filed the foregoing document described as Declaration of John Doe #4 in Support of Motion for Preliminary Injunction with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

James K. Pharris
jamesp@atg.wa.gov

Steven J. Dixson
sjd@wkdlaw.com
Duane M. Swinton
dms@wkdlaw.com

Counsel for Proposed Intervenor Washington Coalition for Open Government

Ryan McBrayer
rmcbrayer@perkinscoie.com
Intervenor Washington Fam

Counsel for Proposed Intervenor Washington Families Standing Together

And, pursuant to Fed. R. Civ. P. 5(b)(1) and 5(b)(2)(C), I served the foregoing document by placing a true and correct copy of the document in a sealed envelope with postage thereon fully prepaid, in the United States mail at Terre Haute, Indiana, addressed to the following non-CM/ECF participants:

Leslie R. Weatherhead
Witherspoon, Kelley, Davenport & Toole, P.S.
1100 U.S. Bank Building
422 W. Riverside Avenue
Spokane, WA 99201-0300

Counsel for Proposed Intervenor Washington Coalition for Open Government

Kevin J. Hamilton
William B. Stafford
Perkins Coie, LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

Counsel for Proposed Intervenor Washington Families Standing Together

Arthur West
120 State Ave NE #1497
Olympia, WA 98501
Proposed Intervenor¹

I declare under the penalty of perjury under the laws of the State of Indiana that the above is true and correct. Executed this 1st day of September, 2009.

/s/ Scott F. Bieniek
Scott F. Bieniek
Counsel for All Plaintiffs

¹ A courtesy copy was provided via e-mail to Mr. West at awestaa@gmail.com.